

Bureau of Land Management, Interior

§ 3432.3

and safety protection, surface protection and rehabilitation that apply to the lease involved, and provisions for adequate recovery and conservation of the coal deposit.

(c) Where the right-of-way is not being used in the development of a Federal coal lease, the removal of the coal shall be made subject to the Surface Mining Control and Reclamation Act of 1977, and subject to such terms and conditions as the authorized officer of the surface management agency determines are necessary: (1) To protect public health, safety, and the environment; and (2) to ensure adequate recovery and conservation of the coal deposits in the right-of-way.

(d) All terms and conditions of the sale shall be terms and conditions of the right-of-way and shall be administered under the provisions of Group 2800 of this title.

[44 FR 42628, July 19, 1979, as amended at 47 FR 33144, July 30, 1982]

Subpart 3432—Lease Modifications

§ 3432.0-3 Authority.

(a) The regulations of this subpart are issued under the authority of the statutes cited in § 3400.0-3 of this title.

(b) These regulations primarily implement section 3 of the Mineral Leasing Act of 1920, as amended by section 13 of the Federal Coal Leasing Amendments Act of 1976 (30 U.S.C. 203).

§ 3432.1 Application.

(a) A lessee may apply for a modification of a lease to include coal lands or coal deposits contiguous to those embraced in a lease. In no event shall the acreage in the application, when combined with the total area added by all modifications made after August 4, 1976, exceed 160 acres or the number of acres in the original lease, whichever is less.

(b) The lessee shall file the application for modification in the Bureau of Land Management State Office having jurisdiction over the lands involved (43 CFR subpart 1821), describing the additional lands desired, the lessee's needs or reasons for such modification, and the reasons why the modification

would be to the advantage of the United States.

[44 FR 42628, July 19, 1979, as amended at 44 FR 56340, Oct. 1, 1979]

§ 3432.2 Availability.

(a) The authorized officer may modify the lease to include all or part of the lands applied for if he determines that: (1) The modification serves the interests of the United States; (2) there is no competitive interest in the lands or deposits; and (3) the additional lands or deposits cannot be developed as part of another potential or existing independent operation.

(b) Coal deposits underlying land the surface of which is held by a qualified surface owner, and which would be mined by other than underground mining techniques, may not be added to a lease by modification.

(c) The lands applied for shall be added to the existing lease without competitive bidding, but the United States shall receive the fair market value of the lease of the added lands, either by cash payment or adjustment of the royalty applicable to the lands added to the lease by the modification.

§ 3432.3 Terms and conditions.

(a) The terms and conditions of the original lease shall be made consistent with the laws, regulations, and lease terms applicable at the time of modification except that if the original lease was issued prior to August 4, 1976, the minimum royalty provisions of section 6 of the Federal Coal Leasing Amendments Act of 1976 (30 U.S.C. 207; 43 CFR 3473.3-2) shall not apply to any lands covered by the lease prior to its modification until the lease is readjusted.

(b) Before a lease is modified, the lessee shall file a written acceptance of the conditions imposed in the modified lease and a written consent of the surety under the bond covering the original lease to the modification of the lease and to extension of the bond to cover the additional land.

(c) Before modifying a lease, BLM will prepare an environmental assessment or environmental impact statement covering the proposed lease area in accordance with 40 CFR parts 1500 through 1508.